IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 6067 of 2004

Between:

1 Dintakurthy Raja Rajeswari Devi, w/o Nageswara Rao,
r/o Godugupeta, Machilipatnam, Krishna District.
2 Dintakurthy Vijaya Durga Kumar, s/o Nageswara Rao,
r/o Godugupeta, Machilipatnam, Krishna District.

..... PETITIONERS

AND

1 The Municipal Corporation of Vijayawada, rep., by its
Commissioner,
Vijayawada.
2 The Commissioner, Municipal Corporation of Vijayawada,
Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of Mandamus or any other appropriate writ or direction declaring the action of the respondents in fixing the tax at Rs.20,854/- per half year for the period from 1-10-1999 to 1-10-2000 as illegal arbitrary and contrary to the provisions of the Hyderabad Municipal Corporation Act and also in violation of principles of natural justice

For the Petitioner:MR.O.MANOHER REDDY, Advocate

For the Respondent No.: MR.T.S.VENKATARAMANA, Advocate

The Court made the Following :

ORAL ORDER: (per the Hon'ble Sri Justice Gopala Krishna Tamada)

The petitioner, owner of the house bearing D.No.22-37-116, ward No.22, Governorpet, Bandar Road, Vijayawada, with municipal assessment No.19091, filed this writ petition questioning the impugned demand notice dated 29-09-2003, directing him to pay the enhanced house tax as arbitrary and contrary to the provisions of Hyderabad Municipal Corporations Act 1955 (for short "the Act").

The grievance of the petitioner is that an assessment was made and as per the assessment, he was directed to pay the house tax at the rate of Rs.3,200/- per half year. But, admittedly without assigning any reasons, the respondent-Corporation has enhanced the tax to Rs.24,327-50 ps. per half year and accordingly, a special notice was issued to him on 03-12-1999. On receipt of the said notice, the petitioner offered his detailed representation stating that the said assessment or enhancement of the tax is not only arbitrary but also contrary to the provisions of the Act. The said representation, according to the petitioner, is dated 10-12-1999, but, however, the respondent-Corporation has not responded to that and passed any orders.

In surprise, he received the present demand notice dated 29-09-03, wherein he is directed to pay the enhanced tax assessed at Rs.20,854 per half year.

On notice, the respondent-corporation in turn filed a detailed counter.

Heard both sides.

Section 220 of the Act, which applies to all the corporations in the State of Andhra Pradesh deals with time for filing complaints against valuations to be publicly announced. Section 221 of the said Act deals with the time and manner of filing complaints against the valuation. Section 223 deals with the hearing of complaint and section 282 of the Act is a provision for appeals against the valuation and taxes. Admittedly, the respondent-Corporation issued the present special notice under section 220(2) of the Act.

According to the other provisions of the Act, the Corporation has to hear the complaints and pass appropriate orders. It is not in dispute that the respondent has submitted his representation on 16-12-1999. It is stated by the learned Counsel for the petitioner that there is no response to the said representation from the respondents, as contemplated under Sections221 and 223. Of course, it is denied in the counter stating that pursuant to the receipt of the said representation the petitioner was given personal hearing and the said demand, as per the special notice, is confirmed. If it is a fact that representation is disposed of, the remedy that is left open to the petitioner is only by preferring an appeal as contemplated under Section 282 of the Act.

In these circumstances, the respondents are directed to serve a copy of the order, wherein the assessment was confirmed, to the petitioner within a period of 15 days and the petitioner is at liberty to prefer an appeal as contemplated under Section282 of the Act, before the appropriate authority within a period of four weeks thereafter. Pending consideration of the appeal and till an order is communicated to the petitioner, the respondent- Corporation is hereby directed not to insist upon the payment of the enhanced tax.

Accordingly, with the above directions, the writ petition is disposed of. No costs.

J.Chelameswar, J.

Gopala Krishna Tamada, J.

Date: 07-07-2004
Jsu/Mrk

To
1. The Municipal Corporation of Vijayawada, rep., by its Commissioner.
2. The Commissioner, The Municipal Corporation of Vijayawada, Vijayawada.
3.2CD copies.